

## ATTACHMENT 1

### **Recommended Response by the San Luis Obispo County Board of Supervisors to the Grand Jury Report of June 2012 on *Out of Sight, Out of Mind: Medical Marijuana in San Luis Obispo County***

The San Luis Obispo County Board of Supervisors provides the following comments in response to the Grand Jury Findings 1, 3, 4, 5, 6 and 7 and Recommendations 1 through 5 set forth in the report titled *Out of Sight, Out of Mind: Medical Marijuana in San Luis Obispo County*

#### **GRAND JURY FINDINGS**

**Finding 1:** San Luis Obispo County has an ordinance allowing brick and mortar medical marijuana collectives, but the Board of Supervisors has rejected all applications to date.

**Response:** The Board of Supervisors agrees with this finding. Title 22 is the County's Land Use Ordinance and Section 22.30.225 establishes requirements for Medical Marijuana Dispensaries seeking a Minor Use Permit. The applications considered by the Board to date did not meet the requirements set out in Title 22.30.225.

**Finding 3:** The county and incorporated cities in the county have not adopted an ordinance regarding medical marijuana mobile collective delivery services operating within their jurisdictions, with the exception of Atascadero.

**Response:** The Board of Supervisors agrees with this finding as it pertains to the county. The cities will respond for their jurisdiction.

**Finding 4:** Business licenses are required for all businesses operating in the incorporated and unincorporated areas of the county.

**Response:** The Board of Supervisors agrees with this finding as it pertains to the unincorporated areas of the county. The cities will respond for their jurisdiction.

Section 6.12.040 B. states:

*Every person, firm, association, or corporation conducting or carrying on a business of any kind or description anywhere in the county outside of the municipalities therein, a license for which is not otherwise provided for in this title or in any other ordinance of the county, and who does not maintain a fixed place of business in the county shall obtain a general business license, and shall pay a semiannual fee of fifty dollars therefor. (Emphasis added)*

**Finding 5:** Many medical marijuana mobile collective delivery services operate in the incorporated and unincorporated areas of the county without a business license.

**Response:** The Board of Supervisors partially agrees with this finding as it pertains to the unincorporated areas of the county. The cities will respond for their jurisdiction. The Treasurer-Tax Collector reports that no medical marijuana mobile collective delivery services have been issued a business license and therefore the County has no way to verify the statement that “*many*” such delivery services are operating in the unincorporated areas of the county. County staff has seen some medical marijuana mobile collective delivery services advertise in local newspapers and on the internet indicating that they deliver to collective members within the county, so it is assumed that these collectives are in operation in the county.

**Finding 6:** There is currently no way to determine the exact number of medical marijuana mobile collective delivery services operating in the incorporated and unincorporated areas of the county or on the Cal Poly campus.

**Response:** The Board of Supervisors agrees with this finding as it pertains to the unincorporated areas of the county. The cities will respond for their jurisdiction.

**Finding 7:** There is no protocol for medical marijuana mobile collective delivery service recordkeeping.

**Response:** The Board of Supervisors partially disagrees with this finding as it pertains to the unincorporated areas of the county. The cities will respond for their jurisdiction. The County Code does not contain provisions specific to recordkeeping protocol for medical marijuana mobile collective delivery services. However, the California State Board of Equalization issued a Special Notice in June 2007 confirming its policy requiring a seller’s permit of anyone selling medical marijuana and to pay sales tax on those sales. Some record keeping is required to comply with this requirement. Further, the California Attorney General issued “Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use” in August 2008. These guidelines include “suggested guidelines and practices for operating a collective growing operation to help ensure lawful operation.” Suggested recordkeeping practices are identified to “help ensure that marijuana grown for medical use is not diverted to illicit markets” such as maintaining membership records and tracking when members’ medical marijuana recommendation and/or identification cards expire. This suggests a protocol for recordkeeping, even though it may not be robust.

## **GRAND JURY RECOMMENDATIONS**

**Recommendation 1:** The County Board of Supervisors should convene a committee comprised of the County Sheriff, County Building and Planning staff, local public health officials, the County Tax Collector, the County Planning Commission, brick and mortar medical marijuana collective and mobile collective delivery service managers, medical

marijuana physician providers and community representatives. The purpose of the committee should be to develop a fair and viable local ordinance for brick and mortar medical marijuana collectives that provide authorized patients with safe access to contaminant-free medical marijuana in accordance with California law.

**Response:** This recommendation will not be implemented because it is not warranted or is not reasonable. The County regulates brick and mortar medical marijuana collectives through its Land Use Ordinance; Title 22.30.225. Further, this is an inopportune time to develop any amendments to our ordinance given the fact that the California Supreme Court has agreed review at least four cases related to how local jurisdictions regulate medical marijuana. It is expected that the rulings to be issued as a result of this review will clarify much of the legal confusion that has existed around medical marijuana related laws. These rulings may not be issued for at least another year.

**Recommendation 2:** The county and incorporated cities in the county should develop an ordinance regarding medical marijuana mobile collective delivery services within their respective jurisdictions.

**Response:** The recommendation will not be implemented in the unincorporated areas of the County because it is not warranted or is not reasonable. The cities will respond for their jurisdiction.

As noted above, this is an inopportune time to develop local regulations given the fact the California Supreme Court is expected to issue rulings in the next few years related to how local jurisdictions regulate medical marijuana. Further, the County Board of Supervisors is of the opinion that the most appropriate approach to this matter of public policy is a State statute, given that these mobile collectives often travel through and make sales and deliveries in several different jurisdictions around the state. A single set of operating statutes and related regulations would provide for consistent and effective public protection. In the absence of a statewide effort, the potential exists for different and potentially conflicting regulations in various jurisdictions which would make compliance much more challenging for these collectives.

**Recommendation 3:** By code or ordinance, the county and each incorporated city in the county should require medical marijuana mobile collective delivery services operating within their jurisdiction to possess a business license and seller's permit.

**Response:** The recommendation has been implemented in the unincorporated areas of the County. The cities will respond for their jurisdiction.

As noted above, Section 6.00.030 of the County Code requires that a license "be procured before the continuance or the commencement of any business, occupation, exhibition, or activity for which this title requires a license from the tax collector of this county." Also, for those without a fixed place of business, Section 6.12.040 B. requires that a general business license be obtained and the required fee paid. Thus, all medical

marijuana delivery service collectives transacting business within the unincorporated areas of the county are required to have a business license.

In addition, as also noted, the California State Board of Equalization has established a policy requiring a seller's permit of anyone selling medical marijuana and to pay sales tax on those sales. These permits are issued by the Board of Equalization, not the County.

**Recommendation 4:** Using business license records, seller's permits and sales taxes, the county and each incorporated city in the county should compile a list of medical marijuana mobile collective delivery services operating within their jurisdiction.

**Response:** The recommendation will not be implemented in the unincorporated areas of the County because it is not warranted or is not reasonable. The cities will respond for their jurisdiction. As stated above, there have been no business licenses issued to medical marijuana mobile collective delivery services as of this writing. Further, the Assessor's Office indicates that the reports received from the California State Board of Equalization do not provide the level of detail needed to identify the medical marijuana mobile collective delivery services that have been issued seller's permits in the unincorporated areas of the county. Therefore the County does not have the information from the business license records, seller's permits or sales taxes to compile the recommended list of these operators.

**Recommendation 5:** By code or ordinance, the county and each incorporated city in the county should require medical marijuana collectives and mobile collective delivery services to keep current records.

**Response:** The recommendation will not be implemented in the unincorporated areas of the County because it is not warranted or is not reasonable. The cities will respond for their jurisdiction. As indicated above, this is an inopportune time to develop local regulations given the fact the California Supreme Court is expected to issue rulings in the next few years related to how local jurisdictions regulate medical marijuana. Further, the County Board of Supervisors is of the opinion that the most appropriate approach to this matter of public policy is a State statute. A single set of operating statutes and related regulations would provide for consistent and effective public protection.